

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Hankins Information Technology)	
)	WC Docket No. 09-197
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
Pursuant to Section 214(e)(6) of the Act)	

**SUPPLEMENT TO PETITION OF HANKINS INFORMATION TECHNOLOGY
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

Hankins Information Technology (FRN 0027344498) (“HIT”), a sole proprietorship, hereby submits this supplement to its petition submitted on September 27, 2018 requesting designation by the Federal Communications Commission (“FCC”) as an eligible telecommunications carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934 (47 U.S.C. § 214(e)(6)) and Sections 54.201 and 54.202 of the Commission’s rules (47 CFR §§ 54.201 and 54.202).

The purpose of this supplement is to include in the record the attached letter from the California Public Utilities Commission (“CPUC”) Legal Division confirming that the FCC is the appropriate entity to address HIT’s Petition, due to state law limitations on the CPUC’s exercise of regulatory authority with respect to Voice over Internet Protocol and Internet Protocol enabled services and federal preemption issues.

Dated this 27th day of September 2018.

GOODIN, MACBRIDE
SQUERI & DAY, LLP
John L. Clark
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 765-8443
Facsimile: (415) 398-4321
E-Mail: jclark@goodinmacbride.com

By 

John L. Clark

Attorneys for Petitioner

2911/001/X202791.v1

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



September 27, 2018

VIA U.S. MAIL AND EMAIL

John L. Clark
Goodin, MacBride, Squeri & Day, LLP
505 Sansome Street, Suite 900
San Francisco, CA 94111
Email: jclark@goodinmacbride.com

Dear Mr. Clark:

This is in response to your request for a statement from the California Public Utilities Commission (CPUC or Commission) regarding the eligible telecommunications carrier (ETC) designation for Hankins Information Technology, a sole proprietorship.

DISCUSSION

Hankins Information Company (Hankins) is a wireless internet service provider (WISP). Hankins is a winning bidder for the Connect America Fund Phase II (CAF II). To be eligible for CAF II, the Federal Communications Commission (FCC) requires bidders to provide documentation of their ETC designation.

The CPUC may designate an applicant as an ETC, provided the Commission has jurisdiction over the carrier seeking ETC designation.

The Commission's authority over WISPs raises issues of state law limitations and federal preemption. Public Utilities Code section 710 states that "the commission shall not exercise regulatory jurisdiction or control over Voice over Internet Protocol [VoIP] and Internet Protocol enabled services" except as "required" by federal law or expressly directed to do so by state statute. In addition, the FCC earlier this year reclassified broadband Internet access service as an "information service," and not a "telecommunications service." (See *Restoring Internet Freedom, Declaratory Ruling, Report and Order, and Order*, WC Docket No. 17-108, FCC 17-166, 33 FCC Rcd. 311 (2018).)

John L. Clark
September 27, 2018
Page 2

Therefore, VoIP providers and ISPs are not required to obtain operating authority in California with one exception - Public Utilities Code section 285 requires VoIP providers to collect and remit surcharges to support the CPUC's public purpose programs. Nevertheless, the Commission has granted Certificates of Public Convenience and Necessity (CPCNs) as well as equivalent registrations under Public Utilities Code section 1013 and the Commission's Wireless Identification Rules (WIR) in response to *requests* from VoIP providers and ISPs.

47 USC § 214(e)(6) reads in relevant part as follows:

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the [FCC] shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service are designated by the Commission consistent with applicable Federal and State law.

Because your client provides broadband Internet access service, which the FCC has declared to be an "information" service, it is appropriate for your client to go directly to the FCC to obtain ETC designation.

This opinion is an informal response from the Commission's Legal Division staff and is not binding on the Commission, which speaks through its decisions. Please contact me at (415) 703-2053 if you have any further questions.

Sincerely,

/s/ JUDITH ALLEN

Judith Allen
Attorney

JDA:ngs